

# GENERAL INFORMATION

**Who must file?** All pass-through entities with nonresident owners or beneficiaries (“members”) must withhold Maine income tax from the Maine-source distributive income of each nonresident member who is not otherwise exempt. **Note: This withholding requirement is separate from and in addition to employee income tax withholding.**

**When to file.** These forms, along with a complete withholding detail for all nonresident members included in the return are due quarterly (April 30, July 31, October 31 and January 31). Payment of withholding amounts must be remitted at the time of filing the return in order to avoid any interest and penalties (*see Interest and penalties* later in these instructions).

**Where to file.** Mail each quarterly return, with payment, to Maine Revenue Services, P.O. Box 9118, Augusta, Maine 04332-9118.

**How much should I withhold?** You must withhold 8.5% of any Maine-source entity income distributable to a nonresident member (8.93% for C corporation members). This percentage represents Maine’s top income tax rate. If you do not know the exact amount of income allocated to a member, you must estimate. To avoid penalties and interest, the withholding tax must be based on either of the following:

- (a) the prior year’s Maine-source member income, or
- (b) 90 percent of the current year’s Maine-source member income.

**Maine-source Member Income.** Maine-source member income is the member’s share of the net income of the entity either apportioned to Maine in accordance with 36 M.R.S.A., Chapter 821 in the case of business entities, or derived from or connected with sources in Maine as determined under 36 M.R.S.A. § 5142 in the case of estates, trusts, and other entities that conduct no trade or business in Maine.

**Are there any exceptions?** If Maine-source entity income allocated to a single member for an entire calendar year or prior year is less than \$1,000, this withholding requirement is waived for that member. However, this does not mean the nonresident member will not owe income tax to Maine. It is possible, especially if there is other Maine-source income, for the nonresident member to owe income taxes to Maine even if the withholding requirement does not apply.

If a nonresident member agrees to comply with all Maine income tax laws, no withholding is necessary. The member who has made this promise must provide the entity with an Affidavit and Agreement to Comply with Maine Income Tax

(Form 941AF-ME). The entity must keep the document on record for at least three years. Further, the entity must annually submit an exemption form (941E-ME) and a list of participating members (941LM-ME).

If a nonresident member wishes to be included in a composite filing, the withholding requirement is waived. Each participating member must provide the entity with an Agreement to Participate in a Composite Filing of Maine Income Tax (Form 941CF-ME). The entity must also file a Form 941E-ME with MRS, although a list of participating members is not required. Visit the MRS Web site at [www.maine.gov/revenue](http://www.maine.gov/revenue) for more information about composite filing.

If a pass-through entity believes, for reasons other than those already mentioned, that it should be exempt from the withholding requirement, or the entity would like to propose an alternate application of the withholding requirement, the entity may apply for an exemption. In order to apply, Form 941E-ME, along with a letter of explanation must be submitted to MRS as soon as possible prior to the filing deadline for the quarterly return. If the exemption request involves a complicated pass-through entity structure (i.e., tiered entities), more time may be required for MRS to issue a decision. If the entity requesting an exemption does not receive a decision prior to the withholding deadline, the entity will need to submit the required withholding. The entity must reapply for the exemptions annually.

Copies of Form 941E-ME, affidavits and more information on pass-through entity withholding and exemptions are available at [www.maine.gov/revenue](http://www.maine.gov/revenue).

**Form 1099ME.** After the calendar year and before February 16, the pass-through entity must supply each member with a copy of Form 1099ME (available at [www.maine.gov/revenue](http://www.maine.gov/revenue) or by calling 207-624-7894), showing the total amount withheld for the year for that member. The member must present this with his/her individual income tax return in order to prove the amount withheld for the year.

**Electronic Funds Transfer (“EFT”).** Maine Revenue Services accepts both ACH credit method and ACH debit method payments for nonresident member withholding, as well as for other tax payments. ACH debit payments are made through a telephone electronic funds withdrawal payment system. Both ACH payment methods require applications to participate. 36 M.R.S.A. § 193 and MRS Rule 102 mandate entities with annual withholding liabilities of \$200,000 or more to pay electronically. Maine Revenue Services also accepts voluntary participants into its electronic funds transfer programs. There are no payment minimums.

## GENERAL INFORMATION, continued

For up-to-date information, to obtain an application for either the ACH Credit Method or ACH Telephone Electronic Funds Withdrawal Method, to obtain a copy of Rule 102, or to learn more about EFT, visit [www.maine.gov/revenue](http://www.maine.gov/revenue), call 207-287-8276, e-mail [efunds.transfer@maine.gov](mailto:efunds.transfer@maine.gov) or write: EFT Unit, Maine Revenue Services, P.O. Box 1068, Augusta ME 04332-1068.

**Penalty for insufficient funds.** The penalty for insufficient funds applies to electronic funds transfers. The penalty is \$20 or 1% of the payment amount, whichever is greater.

**Penalty for failure to pay by EFT.** Any person required to pay by electronic funds transfer who fails to do so is liable for a penalty equal to the lesser of 5% of the tax due or \$5,000.

**Note:** The forms in this book are designed to comply with optical scanning requirements. The spaces outlined in red must be completed carefully in black or blue ink. Letters and numbers must be entered legibly within the outline area. Letters must appear in upper case only and start on the left; numbers start from the right. For example:

Name	C	O	M	P	A	N	Y	I	N	C		
Address	1	2	3		F	I	R	S	T	S	T	
Maine income tax withheld		1	2	.	3	4	5	.	0	0		

For more information, go to [www.maine.gov/revenue](http://www.maine.gov/revenue) or call 207-626-8475.

## SPECIFIC INSTRUCTIONS

**Line 1.** Enter on line 1 the amount of Maine income tax withheld during the period covered. If you made prepayments during the quarter, complete the reconciliation schedule on the return and enter the total amount withheld from line 4 on this line.

**Line 2.** If you have made prepayments during the quarter, complete the reconciliation schedule on the return and enter the total amount remitted (either with Forms 900ME or by EFT) from line 5 on this line. If you would like to make prepayments of income tax withholding, see the specific instructions for reconciliation of 900ME voucher payments below.

**Line 3.** Enter the total Maine income tax withholding due with this return (line 1 minus line 2). Enclose your remittance with the return.

### Schedule 1 – Reconciliation of 900ME Payments or EFT Payments of Income Tax Withholding

If you have made prepayments of income tax withholding for nonresident members, complete Schedule 1 on the return. Complete one row of the schedule for each payment during the quarter.

**Line 4.** If you remit prepayments of income tax withholding, enter the total amount withheld this quarter. Enter this amount on line 1.

**Line 5.** Enter the total amount of withholding paid this quarter. Include amounts remitted with Forms 900ME as well as amounts sent by EFT. Enter this amount on line 2.

### Income Tax Withholding Listing

Do not complete the Income Tax Withholding Listing if you did not withhold income tax for any nonresident members during the quarter. Complete all information for each withholding listing page submitted.

**Column 7.** Enter each member's last name, first name and middle initial. If a nonresident member is other than an individual, enter the business name.

**Column 8.** Type or print each member's social security number or federal employer identification number. If a federal employer identification number, check the box at the top of the form.

**Column 9.** Enter the total Maine income tax withheld for each member during the quarter covered by this report. If a member's withholding is greater than \$999,999.99, enter the withholding on two or more lines to add up to the total withholding for the member.

**Line 10.** Enter the total Maine income tax withheld for owners listed on this page.

**Line 11.** Enter the total Maine income tax withheld for **all** pages on this line (last withholding listing page only) and on line 4 (or line 1, if not completing Schedule 1).